HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL No: 2318 of 2005

Between:

Bommena Laxminarayna,

S/o. Poshetti, aged about 35 years,

R/o. Shivangalapalli Village, Konaraopet Mandal,

Karimnagar District & others.

..... APPELLANTS

AND

The District Collector,
Karimnagar District and others.

....RESPONDENTS

::JUDGMENT::

Counsel for the Appellants : Mr.V.V. Rama Rao

Counsel for the Respondents : G.P. for Land Acquisition

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January 27, 2006

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 28.9.2005 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellants for issuance of mandamus to the respondents to make reference under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act').

There is no dispute between the parties that the land measuring Ac. 0-16¾ guntas, Ac.0-16¾ guntas and Ac.0-33½ guntas (total measuring Ac.1.27 guntas) bearing Survey No.1307 situated at Chandrampet, Karimnagar District belonging to the appellants was acquired for providing house sites to the weaker sections of the society and vide award dated 6-5-1993, Land Acquisition Officer-Mandal Revenue Officer Sircilla Mandal, Karimnagar ordained payment of total compensation of Rs.11,064/- to the land owners. According to the appellants, they had submitted application dated 18-5-1993 for making reference under Section 18 of the Act for enhancement of the compensation and reiterated the same from time to time, but the concerned authority failed to make reference and Writ Petition No.21173 of 2005 filed for directing the respondents to make reference under Section 18 of the Act was summarily dismissed by the learned Single Judge on the ground of laches without considering the acknowledgment made by Mandal Revenue Officer, Sircilla Mandal, Karimnagar vide his letter dated 30-11-2000 addressed to Collector, Karimnagar.

We have heard the learned counsel for the parties and perused the record including affidavit dated 23.12.2005 filed by
Sri V. Anand, presently working as Mandal Revenue Officer, Sircilla Mandal, Karimnagar District in furtherance of direction given by the Court on 20.12.2005.

Sri V.V.Rama Rao, learned counsel for the appellants, relied on letter dated 30-11-2000 sent by Mandal Revenue Officer, Sircilla Mandal, Karimnagar to Collector, Karimnagar and argued that in view of the unequivocal acknowledgment by the officer that application dated 18-5-1993 submitted by the appellants for making reference under Section 18 had been received, the learned Single Judge could not have non-suited his clients on the ground of laches. Sri Rao then argued that the learned Single Judge committed a serious error by dismissing the writ petition ignoring the fact that the appellant had applied for reference within 12 days of the award and had been continuously representing their cause before different authorities.

The learned Government Pleader (Land Acquisition) supported the order of the learned Single Judge and argued that in the absence of any tangible evidence to show the filing of application dated 18-5-1993 by the appellants, the writ petition filed by them in the year 2005 was rightly treated by the learned Single Judge as highly belated. Learned counsel referred to the averments contained in the affidavit of Sri V. Anand to show that the file maintained by the office of the Mandal Revenue Officer does not contain application dated 18-5-1993 allegedly submitted by the appellants and argued that letter dated 30-11-2000 cannot be relied for entertaining the highly belated prayer made by the appellants.

We have thoughtfully considered the entire matter. A careful reading of the order under challenge shows that the learned Single Judge dismissed the writ petition only on the ground that the claim made by the appellants was stale. The learned Single Judge briefly referred to the facts and dismissed the writ petition by recording the following observations:

> "Even according to the petitioners, award was passed almost a decade and a half ago and petitioners, except stating that they were moving around the office of the second respondent, did not take any steps nor evince any interest in the matter. The claim made in the writ petition is a stale claim and therefore this Court is not inclined to countenance the submission of the learned counsel for the petitioners. If such stale claims are entertained in exercise of powers under Article 226 of the Constitution of India, it would be traversity of justice as public interest would be jeopardized by referring old claims to Civil Court for adjudication."

It appears that attention of the learned Single Judge was not drawn to letter dated 30-11-2000 sent by Mandal Revenue Officer, Sircilla to Collector, Karimnagar. In that letter, the Mandal Revenue Officer, after verifying the records recommended that appropriate order be passed in the matter. The relevant extracts of that letter are reproduced below:

> "I submit that Sri Bommenja Poshetti s/o.Lingaiah, Sambari Mallaiah S/o.Kashaiah and Vemula Laxmirajam s/o.Rajaiah r/o.Chandrampet h/o.Sircilla through the ref. 3rd cited have filed a petition stating that their lands have been acquired by the Government for the purpose of providing house sites to the Weaker Sections about 18 years back and compensation amount has been taken "Under Protest" in the year 1993 and requested for referring the matter to the Court u/S.18 (1) of the L.A. Act for determination of

compensation amount within the stipulated period.

Further, they stated that they are not uniformed, as to whether the matter was referred to the Civil Court or not.

In this connection, I have verified the old record pertaining to this subject. From the perusal of the file bearing D.Dis. No.B/986/96, it is evident that an extent of
1-27 acres out of Sy.No.1307 patta land was acquired for providing house sites to the weaker sections and the Award was passed on 6-5-1993. The land compensation amount was paid to the following awardees on 6-5-1993. The details are as follows:

S.No.1	Name of the Awardee2**Sarvasri:**	Amount paid3
1.	Bommena Poshetti s/o.Lingaiah	Rs.2,965-50
2.	Vemula Laxmirajam s/o.Rajaiah	Rs.2,965-50
3.	Sambari Mallaiah s/o.Kishtaiah	Rs.5,533-00

From the perusal of Form “CC”, it is also evident that the above awardees have taken land compensation amount under protest and they have also filed petition u/S.18 (1) of L.A.Act for enhancement of L.A. Amount through the Advocate Sri G. Bhaskar Reddy on 18-5-1993. %The notices 7u/S.12 (2) of L.A.Act of 1894 was issued on 20-4-93 and was served on 6-5-93. The Award was passed on 6-5-1993. They have filed the petition on 18-5-93 i.e., within the time limit only. But the then M.R.O. was not referred this case to the Court. Without referring the case to the Court, this file was closed under D.Dis. on 9-7-1996.”

We are sure that if attention of the learned Single Judge was drawn to the contents of the aforementioned letter, he would not have non-suited the appellants on the ground of delay.

In the affidavit filed by Sri V. Anand it has been suggested that the appellants have manipulated the tagging of petition dated 18-5-1993, but no evidence has been produced by the respondents to substantiate this charge. Therefore, the bald assertion contained in the affidavit of Sri V. Anand cannot be relied for discarding the contents of letter dated 30-11-2000.

In our opinion, the abject failure of the concerned authority to pass appropriate order on the application dated 18.5.1993 filed by the appellants for making reference for the enhancement of the compensation was sufficient for entertaining the writ petition even though the same was filed after lapse of almost 12 years from the date of making of first application. In this context, it is appropriate to observe that the appellants are poor villagers and they do not have the benefit of legal assistance which is available to the people living in the urban areas of the State. Therefore, in cases like the present one, the Court has to adopt a more liberal and elastic approach in considering the request made by the litigant.

For the reasons mentioned above, we hold that the learned Single judge was not justified in declining relief to the appellants only on the ground of laches.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and the writ petition filed by the appellants is disposed of with the direction to Collector, Karimnagar to make reference under Section 18 of the Act within a period of one month from the date of receipt of certified copy of this order.

While disposing of the appeal in the manner indicated above, we consider it appropriate to make it clear that the department shall be free to proceed with the action, which, according to the learned Government Pleader has been initiated against the then Mandal Revenue Officer. If as a result of enquiry being made against the then Mandal Revenue Officer, it is found that the facts enumerated in letter dated 30.11.2000 sent by him to Collector, Karimnagar are false, the concerned authority shall be free to bring this to the notice of the appropriate Court to which reference may be made in terms of the direction given in this order.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

January 27, 2006

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